

REMARKS

This Response serves as the submission accompanying Applicants' Request for Continued Examination (RCE) filed pursuant to 37 C.F.R. §1.114. By final Office Action mailed October 22, 2003, pending claims 172-177 and 179-212 stand rejected, reconsideration of which is respectfully requested in view of the following remarks. Claims 172-177 and 179-212 are now pending.

Teleconference with Examiner

As an initial matter, Applicants would like to thank the Examiner for the March 25, 2004 teleconference with Applicants' attorneys. As discussed, Applicants are submitting this Response, together with a Request for Continued Examination, to have a number of Applicants' arguments, previously submitted with Applicants' amendment filed August 4, 2003, reconsidered by the Examiner.

Rejections Under 35 U.S.C. § 102(b)

Claims 172-177, 179, 180, 182, 183, 185-188, 195-198, 201, 203-208 and 210-212 stand rejected under 35 U.S.C. § 102(b) as anticipated by Kaltenbach et al. (WO 96/12546). More specifically, as clarified by the Examiner during the March 25, 2004 teleconference, the Examiner is of the opinion that Kaltenbach discloses a sample analysis cartridge 2, 52 comprising a sample inlet 22, a convoluted storage channel 10 having a plurality of particle capture regions (shown in the embodiment illustrated in FIG. 1 of Kaltenbach), a resuspension pump 102, a first analysis region in fluidic connection with the storage channel (see modified FIG. 3 on page 3 of the Office Action mailed February 4, 2003) and an analysis valve 106 positioned between the storage channel and the first analysis region.

As discussed during the March 25, 2004 teleconference with the Examiner, Applicants respectfully disagree with several of the foregoing conclusions and submit that Kaltenbach does not disclose a sample analysis cartridge comprising all of the elements recited in pending claim 172. In particular, as set forth below, Kaltenbach does not disclose a resuspension pump interface or first analysis valve as claimed by the present invention.

1. Claim 172 recites, *inter alia*, “a resuspension pump interface in fluidic connection with said storage channel and positioned downstream of said sample inlet”. As described in the present application at page 7, lines 10-11, such an integrated resuspension pump interface is used for reconstituting a sedimentated sample following stop flow or storage. Kaltenbach does not disclose the use of such a resuspension pump interface in fluidic connection with the storage channel disclosed therein. Applicants note that the resuspension pump (*i.e.*, optional actuator means 102) disclosed in Kaltenbach, and referenced by the Examiner, is disposed over reservoir compartment 16, 68, not the storage channel, and is employed to displace fluid from the reservoir into a mixing channel 72 between the reservoir and the first analysis region.

2. Claim 172 recites, *inter alia*, “a first analysis valve interface positioned between said storage channel and said first analysis channel.” Contrary to the Examiner’s conclusion, Kaltenbach does not disclose a first analysis valve interface between a storage channel and first analysis channel. According to the Examiner’s interpretation, the storage channel 10 disclosed in Kaltenbach comprises a storage region and an analysis region, corresponding to the storage channel and first analysis channel, respectively, of the present invention (see modified FIG. 3 on page 3 of the Office Action mailed February 4, 2003). The Examiner points to microvalve 106 (disclosed in FIG. 5 and the corresponding description at page 24, lines 3-13) as being positioned between such storage and analysis regions, however, as shown in FIG. 5, microvalve 106 is positioned between the analysis region and the reservoir compartment 16, 68, rather than the storage channel as in the analysis cartridge of the present invention.

In view of the foregoing, Applicants respectfully submit that Kaltenbach does not disclose every element of amended claim 172. Furthermore, Applicants submit that there is no teaching or suggestion in Kaltenbach to modify the sample analysis cartridge disclosed therein in order to produce the claimed sample analysis cartridge of the present invention. Accordingly, Applicants respectfully request that this ground of rejection be withdrawn.

Rejections Under 35 U.S.C. § 103(a)

Claims 181, 184, 199, 200 and 202 stand rejected under 35 U.S.C. § 103(a) as obvious over Kaltenbach. Claims 189-194 and 209 stand rejected under 35 U.S.C. § 103(a) as obvious Kaltenbach in view of Altendorf et al. (U.S. Patent No. 5,726,751).

As previously submitted by Applicants, both of the foregoing rejections are based on the Examiner's conclusion that Kaltenbach discloses the sample analysis cartridge of claim 172. However, as set forth above, Applicants submit that Kaltenbach does not disclose the sample analysis cartridge of claim 172. Furthermore, neither of the foregoing references, namely, Kaltenbach and Altendorf, contain any teaching or suggestion to modify the devices disclosed therein in order to produce the claimed sample analysis cartridge of the present invention. Accordingly, Applicants request that these grounds of rejection be withdrawn.

In view of the above amendment and remarks, allowance of claims 172-177 and 179-212 is respectfully requested. A good faith effort has been made to place this application in condition for allowance. However, should any further issue require attention prior to allowance, the Examiner is requested to contact the undersigned at (206) 622-4900 to resolve the same. Furthermore, the Commissioner is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,

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